

REMARKS/ARGUMENTS

Claims 1-26 remain in the application. Claims 10 is amended to correct an informality.

A. Objections to the Specification.

The office action required that trademark usage in the specification be attributed by capitalizing trademarks. Appropriate amendment to the specification is made by this response. It is noted that company names when used as company names should not require such attribution. It is respectfully requested that the objection be withdrawn.

B. Rejections under 35 U.S.C. 112.

Claims 10 and 12 were rejected under 35 U.S.C. 112. Claim 10 is amended to overcome the rejection, although it is believed that use of the definite article "the" may be a more common form of a Markush expression. With respect to claim 12, it is believed that "a transmission time" in line 4 provides antecedent basis for "the transmission time" in lines 5-6. It is respectfully requested that the rejection be withdrawn.

C. Rejections under 35 U.S.C. 102.

Claims 1-10, 12-13, 15, and 20-26 were rejected under 35 U.S.C. 102 based upon Nelson. This rejection is respectfully traversed.

Independent claim 1 calls for, among other things, a controller linked to first and the second data buffers for selectively retrieving the data packets of the first and second media streams to form a first and a second time-adjusted stream, wherein the controller determines a variable transmission delay for the first and the second media streams and performs the selective retrieving based on the determined variable transmission delays. Further, claim 1 calls for the controller to combine the first and second time-adjusted streams into a composite media stream. These elements of claim 1 are not shown or suggested by Nelson.

The Office Action asserts that Nelson shows system for streaming media, but it is respectfully believed that transmission of a live audio signal, such as in a telephony system, is significantly different from streaming media. As noted in the specification, streaming media comprises

“packets ...of audio, video, animation, text, and the like. Once transmission begins, the packets are streamed or transmitted on an ongoing basis so that the end-user or receiving party can begin to use (i.e., hear, see, and otherwise use) the data before downloading an entire file.”

In the case of an digital voice data taught in Nelson there is no file that is being transferred. In the case of other types of data transmitted by Nelson, there is not indication that the files can or would be useful before being entirely downloaded. In other words, Nelson does not involve streaming and the data transmitted by Nelson is not taught to include streaming media files.

Nevertheless, Nelson teaches a generic data transmission mechanism that could be used to transmit streaming media files, even though Nelson does not teach such use. Further, as Nelson teaches a multiplexed system, it is conceivable that Nelson could be used to transmit two or more streaming media files within a single network frame. However, Nelson requires that each channel remain separate within the frame. Hence, Nelson does not contemplate combining first and second media streams into a composite media stream. The collection of independent channels that make up frame traffic in Nelson does not fairly show or suggest a composite media stream.

The Office Action alleges that Nelson shows an input interface to receive first and second media streams. The cited portions of Nelson do not clearly identify any media stream that is received, nor do these portions of Nelson describe an interface.

The Office Action fails to point out where Nelson shows a first data buffer. The cited portion at column 9, lines 62-63 is relied on to show a second data buffer, but not a first data buffer. Moreover, claim 1 calls for a data buffer that stores data packets (plural) from a first media stream as well as a second data buffer that stores data packets (plural) from a second media stream. Nelson describes buffering two characters each comprising 6-bits of data. This buffer cannot possibly store multiple packets of data. Further, the character data stored in Nelson is clearly not a media stream as that term is used in the industry.

Significantly, Nelson does not appear to discuss transmission delays at any point in the portions relied on by the Office Action. Nelson describes buffering to compensate for transmission rate variation, but does not appear to face a problem of variable transmission delay addressed by the invention of claim 1. Hence, Nelson does not show or suggest a controller that determines a variable transmission delay for the first and the second media streams and then combines the first and second time-adjusted streams into a composite media stream.

Claims 2-10 and 12-14 depend from claim 1 and are believed to be allowable for at least the same reasons as claim 1.

Moreover, with respect to claims 2-4, it must be appreciated that not all video is "streaming video" as called for in the claim. Hence, the mere mention of video data in Nelson does not in any way show or suggest that streaming video is being discussed.

Dependent claims 5-7 call for, in varying language, systems in which streams are spiced together so that the end of a first multi-packet stream is followed by the beginning of a second multi-packet stream. Nelson only describes identifying the beginning and ending of individual characters and does not and does not describe the beginning and ending of multi-packet streams.

With respect to claims 8-10, as noted above Nelson does not seem to face a problem of variable transmission delay and so would have little need to teach or suggest a manner for determining variable transmissions delays. Although the Office action states that Nelson deals with "variable network delay" that term does not appear anywhere in the Nelson reference.

With respect to claims 12-14, Nelson does not show or suggest that any packets from a first media stream are "correlated" with any packets from a second media stream. Each of the channels in Nelson operates independently and there is no correlation between packets. Accordingly, there would be no need to implement a system such as called for in claims 12-14 in which the packets from first and second media streams are matched at transmission time.

Independent claim 15 calls for, amongst other things, a decoder for decoding the first and the second media streams into a first and a second intermediate media stream, respectively, wherein the first and second intermediate streams are compatibly formatted. Claim 15 also calls for a streaming media processor for combining the first and the second intermediate-format media streams into a composite media stream. These features of claim 15 are not shown or fairly suggested in the Nelson reference.

The cited portion of Nelson discusses a controller that interfaces with a number of CODECs, but does not show or suggest that these CODECs use multiple different standards. There is no discussion of an intermediate media stream, nor combination of two intermediate media streams in to a composite media stream. As noted above, Nelson does not show or suggest a composite media stream in any form. For at least these reasons claim 15 is allowable over Nelson.

Claims 20-26 are believed to be allowable for at least the same reasons as claims 1, and the claims that depend from claim 1, that are set out above.

D. Rejections under 35 U.S.C. 103.

Claim 11 was rejected under 35 U.S.C. 103 based upon Nelson in view of allegedly admitted prior art. This rejection is respectfully traversed.

Applicant's note that while the specification at page 3, lines 21-24 does describe a traditionally system, it does not provide any motivation to combine that teaching with any other reference. In fact, such motivation is provided exclusively by Applicants' own act of invention and is expressed exclusively by Applicants' own teaching. In paragraph 29 of the Office Action the Office appears to rely explicitly on Applicants' own teaching to show motivation supporting the proposed combination. It is well-settled, however, that Applicants' own teaching cannot be used to form a proper rejection under 35 U.S.C. 103. It is respectfully requested that the rejection be withdrawn.

Claim 14 was rejected under 35 U.S.C. 103 based upon Nelson in view of "Official Notice. This rejection is respectfully traversed. Applicant is unaware of any "notorious" knowledge of an end-user synchronizer. Specifically, claim 14 calls for a synchronizer for determining a variable transmission delay between the controller and the end-user node and for performing time-based correction of the composite media stream to adjust for the variable transmission delay. The office action does not even allege that this type or functionality in a synchronizer is well-known. Accordingly, the use of Official Notice in this instance is challenged and it is respectfully requested that some reference be supplied to support this feature or that the rejection of claim 14 be withdrawn.

Claims 16-19 were rejected under 35 U.S.C. 103 based upon Nelson in view of Anderson. This rejection is respectfully traversed.

Claims 16-19 are distinct from Nelson for at least the same reasons as claim 15 from which they depend and for at least the same reasons as set out above in regard to claim 1. Moreover, claim 16 calls for a controller in communication with the input interface and the streaming media processor adapted for determining a variable transmission delay for the first and the

second media streams based on a transmission time for a data packet of the first media stream and a time of receipt at the input interface of the data packet and on a transmission time for a data packet of the second media stream and a time of receipt at the input interface of the data packet. These features of claim 16 are not shown or suggested in Anderson.

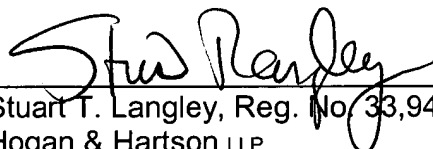
E. Conclusion.

The references that were cited but not relied upon are no more pertinent than those references that were relied upon. In view of all of the above, the claims are now believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact Applicants' attorney at the telephone number listed below.

This response is filed together with a request for a three month extension of time and the required fee. Any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,

October 1, 2004



Stuart T. Langley, Reg. No. 33,940
Hogan & Hartson LLP
One Tabor Center
1200 17th Street, Suite 1500
Denver, Colorado 80202
(720) 406-5335 Tel
(303) 899-7333 Fax